

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION**

PAULA ASHCROFT a/k/a PAULA
ASHCRAFT and RICK ASHCROFT
a/k/a RICK ASHCRAFT,

Plaintiffs,
vs.

WALMART, INC. D/B/A SAM'S CLUB
AND D/B/A SAM'S WHOLESALE CLUB
AND SAM'S REAL ESTATE BUSINESS
TRUST,

Defendants.

Case No. 5:22-cv-4005
Iowa District Ct. Case No. LACV201235

NOTICE OF REMOVAL

COME NOW Defendants Walmart Inc. and Sam's Real Estate Business Trust ("Defendants") through its attorneys, MWH Law Group LLP, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, and hereby remove the above-captioned cause of action from the Iowa District Court for Woodbury County to the United States District Court, Northern District of Iowa, Western Division. In support thereof, Defendants state the following:

1. This action was originally filed by Plaintiffs against Defendants on or about January 27, 2022 and a First Amended Petition was filed on February 21, 2022 in the Iowa District Court in and for Woodbury County, entitled *Paula Ashcroft a/ka Paula Ashcraft and Rick Ashcroft a/k/a Rick Ashcraft v. Walmart, Inc. d/b/a Sam's Club d/b/a Sam's Wholesale Club and Sam's Real Estate Business Trust*, Case No. LACV201235. Pursuant to 28 U.S.C. § 1446(a) and Local Rule 81, a copy of the Petition at Law, the First Amended Petition and Defendant's Answer are attached as **Exhibit 1, Exhibit 2 and Exhibit 3**.

2. Personal service was made upon the Defendants' Registered agent on February 1, 2022.

3. This case may be removed from the Iowa District Court in and for Woodbury County to the United States District Court for the Northern District of Iowa, Western Division, pursuant to 28 U.S.C. § 1332. The United States District Court has original jurisdiction over the litigation filed in state court based on diversity of the parties.

4. This is a civil action in which Plaintiffs Paula Ashcroft a/k/a Paula Ashcraft and Rick Ashcroft a/k/a Rick Ashcraft claim that they are entitled to damages for personal injury resulting from an incident that occurred at the Sam's Club store located at 4201 S. York Street, Sioux City, Iowa on February 10, 2020. Plaintiffs are seeking past and future physical and mental pain and suffering, past and future medical expenses, past and future loss of function of body, lost wages, loss of future earning capacity, loss of spousal consortium and other related damages. (*See Exhibit 1, ¶ 6 and 7.*) The amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interests and costs.

5. Defendants Walmart Inc. and Sam's Real Estate Business Trust are the sole Defendants in this action.

6. Walmart Inc. is incorporated in Delaware and has its principal place of business in Bentonville, Arkansas, and is deemed to be a citizen of both Delaware and Arkansas pursuant to 28 U.S.C. 1332(c)(1).

7. Sam's Real Estate Business Trust is a Delaware statutory trust of which the sole unit holder is Sam's Property Co.

a. Sam's Property Co. is a Delaware corporation with its principal place of business in Bentonville, Arkansas, and is deemed to be a citizen of both Delaware and Arkansas pursuant to 28 U.S.C. 1332(c)(1).

8. Plaintiffs are residents of Woodbury County, Iowa.

9. The time for filing this notice of removal has not run because thirty (30) days has not expired since February 1, 2022, the date on which the Defendants were personally served with the Original Notice and Petition at law.

10. Pursuant to 28 U.S.C. § 1446(a) and Local Rule 81, a copy of the Original Notice and Petition and Jury Demand and the First Amended Petition filed by the Plaintiffs and a copy of the Answer filed by the Defendants are attached and incorporated herein by reference as **Exhibit 1, Exhibit 2 and Exhibit 3.**

11. Pursuant to Local Rule 81(a), Defendants state that this is the only matter currently pending in the state court that will require resolution. Defendants have not been served with and are not aware of any other process, pleadings, and/or orders in the action pending in the Iowa District Court for Woodbury County.

12. Counsel that has appeared on behalf of Plaintiffs in state court is:

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11. This Notice of Removal is being served upon the Plaintiffs' counsel by electronic mail and is also being filed with the Clerk of the Iowa District Court in and for Woodbury County.

WHEREFORE, Defendants give notice that the above-captioned action now pending against it in the Iowa District Court in and for Woodbury County is removed therefrom to the United States District Court for the Northern District of Iowa, Western Division.

Respectfully submitted,

/s/ Kerrie M. Murphy

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Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on February 23, 2022, I electronically filed the foregoing with the Clerk of the Court using the ECF system which will send notification of such filing to all attorneys of record.

/s/ Cyndi R. Ellis

I further certify that on February 23, 2022, I emailed a copy of the foregoing to opposing counsel at the address listed below:

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/s/ Cyndi R. Ellis